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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 27th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 17 February 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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(a) Torture and other cruel, inhuman or degrading treatment or punishment

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The meeting was called to order at 10.20 a.m.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF IRAQ

1. The CHAIRMAN invited the Minister for Foreign Affairs of the Republic of Iraq to address the Commission.

2. Mr. AL-SAHAF (Iraq) said he hoped that, at its fiftieth session, the Commission would succeed in taking decisions that would contribute to the enhancement of human rights and the rejection of exploitation and political blackmail.

3. The United Nations Charter and every instrument from the Universal Declaration of Human Rights to the Vienna Declaration had been along the road towards the enhancement of human rights for the benefit and true interests of humanity, so that all could live in peace and security in a world based on relations of equitable cooperation and free of the threat of hunger, poverty and disease.

4. Iraq had always believed in those principles as a result of its history and its ancient civilization. Respect for and protection of human rights was a fundamental humanitarian fact of life. Acting on the basis of that conviction, Iraq had ratified many international human rights conventions, including the Convention on the Rights of the Child, and it was considering acceding to those agreements that it had not yet ratified. Iraq had supported all decisions taken and declarations made by the relevant human rights bodies.

5. Although Iraq's general understanding of the principles of human rights was in keeping with the common fundamental criteria, it was important to take into account the special nature of each society and its religious, cultural and social realities, as well as its political and economic development. Differences of opinion could thus exist between countries or societies, but that must not serve as a justification for violating the very rights which the international community sought to guarantee and defend. Such divergent conceptual views had occasionally led to accusations of human rights violations being levelled against one country or another, when in fact there had been no disagreement about those rights and the obligation to respect them.

6. Human rights issues were currently being used, however, as a weapon to destabilize the political system of States in many parts of the world, including his own country, to interfere in their internal affairs and to destroy their unity and social fabric. Human rights were being manipulated in various ways by certain major Powers for their own political ends. In no area was the use of double standards and selectivity so glaring as in that of human rights.

7. The case of Israel evidenced those double standards and selectivity. The international community had adopted numerous resolutions condemning Israel's violations of human rights in the occupied Arab territories. Yet, Israel continued to act with impunity. The same held true in the former Yugoslavia, where the United Nations was incapable of taking action to end the tragedy.

8. His Government had endeavoured to build a State governed by law and order, based on a realistic and practical policy aimed at establishing a balance between economic, political and social development. It had given priority to the economic, social, cultural and scientific infrastructures, which had had a positive effect on the full range of individual rights and freedoms. That had been achieved by measures to eliminate illiteracy, compulsory education at all levels and the provision of care for women, children and the handicapped. His Government's efforts had helped create a climate in which democracy could flourish in a balanced way. They had also led to rising standards of individual development and increased respect for constitutional and legal rights.

9. His Government's policies had been unjustly criticized from abroad. In particular, unfounded allegations of human rights violations had been used to impede Iraq's development plans and to hamper the implementation of its national programme to establish democratic institutions. Despite the severe circumstances currently being imposed on it, Iraq had adopted measures and taken steps to confirm its respect for the rights of the individual.

10. Human rights suffered in times of crisis and armed conflict and flourished under conditions of peace and stability. His country was no exception. Following the conflict with Iran, his Government had, during the period between August 1988 and August 1990, drafted and discussed a new constitution, reviewed and rescinded many of the special legislative measures it had had to take as part of its defence against the Iranian war of aggression, removed travel restrictions, announced a new era of political pluralism and enacted new legislation concerning freedom of the press.

11. Shortly after their implementation, those new measures had been undermined by the total war of aggression launched against his country on 17 January 1991, during which the aggressor countries had used destructive weapons that were prohibited under international treaties. The economic blockade imposed on his country had had, and continued to have, a negative impact on human rights in general.

12. Those who had been accusing his Government of human rights violations were the same people who had perpetrated the most atrocious crimes against his country, both before and after the military aggression of January 1991. They were the same who continued to perpetrate the crime of genocide against the Iraqi people by deliberately prolonging the comprehensive economic blockade, despite the fact that the pretexts originally used for imposing that measure no longer existed.

13. The blockade was giving rise to many serious consequences for his country. The food supply had decreased to dangerously low levels. There were severe shortages of medicines and related items because all medical shipments had been blocked, even though his Government had purchased and paid for the supplies in question before August 1990. Hostile air bombardments had damaged Iraq's medical facilities and health establishments; most of its medical equipment no longer functioned owing to a lack of spare parts, and epidemics and diseases had spread among women, children and the elderly. Mortality among infants and children had risen sharply between 1990 and 1993;

malnutrition was on the rise; increased mortality rates had also been registered among females and the elderly. The prices of basic commodities had risen sharply.

14. The continuing blockade was having an adverse effect not only on the life and dignity of the Iraqi people but also on their enjoyment of economic, social, cultural, civil and political rights. It was preventing Iraq from honouring its commitments to the international human rights instruments. In addition, the blockade had disrupted the national programme to establish democratic processes. For example, many persons who had intended to set up political parties had had to abandon their plans in order to look after their families, which were living in difficult conditions.

15. Lifting of the economic blockade was a precondition if his Government was to proceed with its plans fully to implement measures relating to human rights. The blockade, itself, violated the fundamental principles of human rights. He therefore appealed to the Commission to call for the lifting of the blockade, a stance that was in accordance with humanitarian law.

STATEMENT BY THE SECRETARY-GENERAL OF THE ORGANIZATION OF THE ISLAMIC CONFERENCE

16. The CHAIRMAN invited the Secretary-General of the Organization of the Islamic Conference to address the Commission.

17. Mr. ALGABID (Organization of the Islamic Conference) said that, since its establishment, his organization had always contributed to the international effort to build a world founded on the spirit of equality, justice and fraternity among nations and peoples. It recognized that the Commission on Human Rights had played a pioneering and indispensable role as a symbol of the conscience of mankind and of the aspirations of peoples towards the realization of the noble ideals of justice, liberty and peace.

18. Rapid and far-reaching transformations in the political and economic environment over the past few years had created a situation where the familiar parameters no longer applied. The international community would require all its wisdom and experience to meet the new challenges. Tensions and conflicts in various parts of the world necessitated immediate and effective efforts to find just and equitable solutions to put an end to them.

19. Applying the principle of self-determination for several decades, the United Nations had helped to speed up decolonization in various parts of the world thus enabling several of the peoples represented in the Commission to enjoy their liberty and sovereignty and to make a contribution towards a more just and equitable world. However, much still remained to be done.

20. The Palestinian people continued to wage its fight for the exercise of its inalienable right to self-determination. Together with the other Arab populations of the occupied territories, it continued its struggle against the same regular daily atrocities that were the logical result of the occupation. It was to be hoped that the long martyrdom of that proud people would have the desired happy ending and that the laborious direct negotiations between the Palestine Liberation Organization (PLO) and Israel, within the framework of

the Middle-East peace process would be successful. That process, which was so promising for the people of the region, needed to be constantly supported and encouraged and his organization, which had been among the first to give its support, would do its best to make an effective contribution to those efforts.

21. A just and durable peace in the Middle East could be achieved only by securing Israeli withdrawal from all the occupied territories, including Al-Quds al-Sharif (the Holy City of Jerusalem), and by enabling the people of Palestine to exercise its inalienable right to self-determination and to establish its independent Palestinian State, under the leadership of the PLO, its sole legitimate representative. The objective of the peace process and all the efforts of the international community must be to respond to the legitimate aspirations of all the peoples of the region for peace, progress, the full exercise of sovereignty and security.

22. The fate of the people of Bosnia and Herzegovina was another source of profound concern and indignation not only to his organization and its member States but also to all peace- and justice-loving peoples of the world. It was a test case for the future of mankind and, indeed, of the globe. Passivity or inaction in the face of such a grave crime, aimed at the extermination of an entire people, could well have tragic consequences. The Bosnian Muslims were being subjected to genocide and expressions of horror were not enough.

23. Most nations felt that the time had come to adopt practical measures to put an end to the slaughter by applying the many relevant resolutions of the Security Council. Those resolutions, demanding an end to the Serbian aggression against the Republic of Bosnia and Herzegovina, were clear and unambiguous. It was in that context that he had welcomed the latest decision by NATO, which had finally responded to the appeals his organization had made to the European Union and the Security Council.

24. In a sense, that decision corrected the approach which had been the basis of the peace plan initiated by the United Nations and the European Union and which treated the conflict as a civil war. His organization, which had always asked for an approach based on the principles of law, legitimacy and justice, had incessantly urged the Security Council to implement its own resolutions on Bosnia and Herzegovina. The unjust, illegal and clearly discriminatory embargo imposed on the Government of Bosnia and Herzegovina must be lifted and the right of individual and collective self-defence of the Republic restored.

25. The Commission must continue to focus the attention of the world community, especially that of the major Powers, on the tragic consequences of the aggression against Bosnia and Herzegovina and emphasize the need for international action to defend its sovereignty, independence and territorial integrity. It must continue to monitor closely the situation in that country, whose people and Government deserved its solidarity and unflinching support.

26. On the subject of international law and human rights, attention must be drawn to the Kashmir situation, where the occupying forces were ruthlessly suppressing the just struggle of a people seeking to exercise its inalienable right to self-determination. Over the past four years, the Indian security forces had seriously violated the fundamental rights of the people of Kashmir. His organization had constantly appealed for a peaceful settlement of the

question of Jammu and Kashmir, in accordance with the relevant United Nations resolutions, and had called for an end to oppression there, urging India to respect the human rights of the Kashmiri people, including its right to self-determination.

27. The Government of India had always refused to allow his organization to send a fact-finding mission to Kashmir. That was regrettable but his organization had, nevertheless made many appeals for a dialogue and had urged that Government to react positively to its goodwill initiatives aimed at finding a peaceful solution and eliminating tension in the region. He hoped that the Commission would take due note of the gravity of the human rights situation in Kashmir with a view to putting an end without delay to the sufferings of its people.

28. Recent years had seen a number of man-made disasters that had resulted in a massive exodus of refugees and large-scale displacement of populations. The international humanitarian agencies were trying to contain that phenomenon which could well expand and overwhelm the combined capacity of those institutions. In that respect, the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) deserved grateful appreciation for the work they were constantly doing.

29. His organization and its specialized institutions, the Islamic Development Bank and the Islamic Solidarity Fund, had contributed to the efforts of the international community to alleviate the sufferings of the victims of those disasters, crises, civil wars and conflicts.

30. His organization was also following with great interest the efforts being made by the Commission to guarantee the realization of the right to development. Any global approach to human rights issues must necessarily address the problems of the poverty, famine and disease which afflicted millions of men, women and children in the developing countries. In that regard, he was confident that the Commission would be able to evolve a practical approach to all the humanitarian problems currently assailing the world, an approach that was based on objectivity, impartiality and scrupulous application of internationally accepted standards.

31. It was most important to redouble endeavours to develop a better understanding among the various cultures and perceptions characterizing the world as it existed. It was also important to combine efforts to combat xenophobia, jingoism and extremism and thus contain the tendencies towards withdrawal and rejection of other people. That was the only way of creating an environment conducive to the development of the full human potential and of involving every individual, people, nation, country and region in the realization of mankind's common aspirations for universal peace, progress and prosperity.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1994/24, 25 and Add.1, 26 and Corr.1 and Add.1, 27, 28, 29 and Add.1, 30-33, 88 and Corr.1, 93 and Corr.1, and 103; E/CN.4/1994/NGO/5, 8, 10, 11, 18, 19, 21, and 25; E/CN.4/Sub.2/1993/8, 9, 23/Rev.1, 24 and Add.1 and 2, and 25; E/CN.4/Sub.2/1992/10; A/48/520 and 579)

32. Mr. CHOEPHEL (International Association of Educators for World Peace) said that there had been a significant increase in arbitrary and political detentions in Tibet in 1993. The Chinese authorities had taken no practical steps to improve the human rights situation there, particularly the rights of detainees, who were threatened with merciless beatings as part of their "education for socialist mental transformation".

33. There had also been unconfirmed reports of a decision by the Chinese authorities to carry out secret arrests of 49 key human rights and independence activists and 400 to 500 other persons over a three-month period. Some 60 to 82 Tibetans, including intellectuals, officials and artists, had reportedly been detained in north-eastern Tibet (renamed Qinghai) in July and August.

34. As there were no independent observers or human rights organizations in Tibet, and the Chinese authorities refused to provide information on arrests, many political detainees remained unidentified. Under Chinese rule in Tibet, prisoners were not informed of the grounds for arrest or of their right to legal protection. A person could be held in custody for a long time before he or she was officially declared "arrested". During that initial period, families were not informed of the detention, for, legally, the detained person had not been arrested.

35. In June 1993, nearly 2,000 soldiers had been deployed to suppress protests in Kyimshi village. In November, Thupten Yeshi, a Tibetan farmer from Dashar village, had been sentenced to 15 years in prison - the longest prison sentence on a political detainee from rural Tibet in recent years. In May 1993, in widely-publicized sweeping arrests of Tibetans, Gendum Rinchen and Lobsang Yonten, both residents of Lhasa, had been detained a few days before the arrival of a European Community delegation for fear lest they might provide it with human rights information. Held in solitary confinement for eight months, they had not been charged although a spokesman of the Ministry of Foreign Affairs had later accused them of stealing State secrets and engaging in separatist activities that threatened China's national security.

According to unconfirmed reports, they had been released in January 1994, mainly as a result of pressure from the international community, including non-governmental organizations.

36. Although China had ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it routinely resorted to torture during interrogation in order to extract confessions. According to the testimony of former political prisoners, methods and instruments of torture included indiscriminate beatings with such instruments as electric batons and shockers, boots, fists, rifle butts, sticks and iron bars. Prisoners were attacked by guard dogs; subjected to sexual abuse and to electric shocks on or in the sexual organs or, inside the mouth; burned with cigarettes, hung in extremely painful positions; and exposed to extreme cold or heat (e.g. they were forced to lie naked on ice or were hung by the feet over a fire).

37. Unfair trials and prolonged detentions were also profoundly disturbing. According to new independent reports, 60 per cent of Tibetan prisoners were being held without trial. Only one of the political prisoners detained in 1993 had actually been sentenced. The last political arrest acknowledged by the Chinese authorities had been in 1991. Due process did not exist in the Chinese legal system, which was based on forcing an admission of guilt from the defendant. Thus, anyone who was put on trial was virtually certain to be found guilty.

38. The year 1993 had seen a dramatic increase in what was known as "re-education through labour" under administrative sentencing. According to official Chinese reports, 97 Tibetans - including many young nuns - had been sentenced to "re-education through labour" between 1987 and 1991. As an illustration, he mentioned the case of 64-year-old Tanag Jigme Sangpo, who had been in and out of prisons and labour camps since 1964 for displaying independence slogans and posters.

39. His organization urged the Commission to take effective steps to stop further human rights violations in Tibet and China, particularly against detainees. It urged the Government of China to permit the International Committee of the Red Cross (ICRC), the United Nations Working Group on Arbitrary Detention and non-governmental organizations to carry out independent investigations of prisons and labour camps in Tibet.

40. Ms. HANDSCHIN (World Movement of Mothers) said that mothers and children were the innocent victims of conflicts and repression and her organization strongly condemned the infliction of cruel and degrading treatment on civil populations belonging to rival factions in times of conflict. The elderly, women and children must not become the targets of racial, religious or political hatred. Her organization, which comprised mothers of every religion and respected all beliefs, was convinced that every human being, regardless of language, religion or skin colour, had the right to life, a right that no one was entitled to take away. It denounced violence and repression as a means of imposing a regime or a philosophy and reiterated its hope that the Commission would intensify dialogue with a view to guaranteeing the dignity of all human beings.

41. Mr. CHRUNGOO (Indian Institute for Non-Aligned Studies) said that he was a member of the Hindu minority in Jammu and Kashmir and one of the more than 300,000 persons - mostly Kashmiri Hindus known as "Kashmiri Pandits" - who had been forced to leave the Kashmir valley in order to escape persecution at the hands of terrorists. Since 1990, he had been living as a displaced person in Jammu, outside his homeland of Kashmir.

42. Terrorist violence had, in fact, "ethnically cleansed" the Kashmir valley of the entire Kashmiri Hindu minority. That violence in Kashmir was an extension of the religious fundamentalist movement for the Homeland of Pakistan, which claimed Kashmir on the basis of its Muslim majority. The violence was designed to destroy the non-Muslim population in Kashmir in order to impose a monolithic order dominated by a single religion.

43. Terrorist activities against his community had begun in September 1989, with a spate of selective killings in the Habbakadal area, which had had a significant Hindu population; they had reached a crescendo in February and March 1990. Most of the victims had been subjected to brutal torture. Their dead bodies had been left in full view on the open roads in order to terrorize the Kashmiri Hindus and, in many cases, the terrorists danced around the corpses, chanting religious slogans.

44. They often threatened that those who assisted in the cremation of the dead bodies would receive similar treatment. Selective killings and torture had taken place in other parts of the valley as well. Selected persons were commonly issued death notices or a community was given an ultimatum to leave Kashmir within a specified time. Abductions and gang rapes had also begun to occur regularly. During that campaign of terror, 30,000 houses had been burned and Hindu properties had been looted.

45. His organization had no doubt that Pakistan was directly assisting the terrorists. In 1989 and 1990, preachers in the mosques had been openly encouraging young people to go to Pakistan for combat training and young men openly said that their weapons came from Pakistan. In the circumstances, the inaction of the Indian Government, which had a constitutional obligation to protect all its citizens, was astonishing.

46. The plight of the Kashmiri Pandits had received little attention from the international community, particularly the human rights bodies, and the international media. Representatives of Amnesty International and Asia Watch had visited India recently and representatives of Asia Watch had even visited the Kashmir valley. However, they had not seen fit to visit the camps in Jammu and in Delhi where thousands of families had been living since 1990.

47. The Hindu minority community was in danger of dying out. More than 5,000 persons had died of disease and hardship following the exodus from Kashmir valley, and their culture was disintegrating. Despite their terrible suffering, the Kashmiri Hindus had not countered violence with violence, but had retained their faith in non-violence and tolerance, even in a world ravaged by ethnic and religious conflicts.

48. Ms. BARNES de CARLOTTO (International Movement for Fraternal Union Among Races and Peoples), speaking also as the President of the Grandmothers

of the Plaza de Mayo, said that a paper prepared by the Argentine human rights organizations for the World Conference on Human Rights revealed how much still remained to be done in that country, even after 10 years of democracy. The high-risk situation of Argentine children and adolescents, including the hundreds of children who had disappeared in Argentina under the military dictatorship between 1976 and 1983, had been examined by the pre-sessional working group of the Committee on the Rights of the Child, with input from the Argentine Committee for the Monitoring and Implementation of the Convention on the Rights of the Child, of which the Grandmothers of the Plaza de Mayo was a founding member.

49. While 55 of the missing children had been found, it was very difficult to locate the others. That was compounded by the indifference of the judiciary to restitution actions. The decision of the courts were contradictory - some of them being correctly based on the Constitution and the laws in force while others, under the guise of legality, actually provided legal cover for the oppressors holding their grandchildren. There had been some very unfortunate decisions in which judges had refused to check the compatibility of a child's blood with the blood of relatives deposited in the National Genetic Data Bank and ruled in favour of those in possession of the children. It was unacceptable that the Argentine courts should permit a minor to reject blood tests, since he or she was still under the control of the kidnapper parents. It was a violation of the national and international legal rules on the protection of the child.

50. A former major in the medical corps of the Argentine army, Dr. Norberto Atilio Bianco, a notorious participant in political abductions had fled to Paraguay in 1986 when he and his wife were summoned to appear before an Argentine court. He had taken two children with him. Paraguay's failure to extradite them, despite countless requests, constituted a violation of international treaties, including the Pact of San José, Costa Rica and articles 7, 8 and 11 of the Convention on the Rights of the Child. The issue was not being forcefully pursued by the Ministry of Foreign Affairs of Argentina either.

51. Year after year, her organization had recounted to the Commission the case of the Reggiardo-Tolosa twins, born in 1977 in a concentration camp set up by the dictatorship and stolen by a policeman who had been a torturer and abductor under that regime. A new judge in the case, that had begun in 1986, had ordered the release of the 16-year-old twins. They had been removed from the custody of their counterfeit mother and returned to their natural family in December 1993. The support of the national and international community, the National Commission for the Right to Identity and the Organization of American States (OAS) had been invaluable in that campaign. Her organization had submitted a complaint to the Inter-American Commission on Human Rights that Argentina had violated the Pact of San José, Costa Rica, and other international instruments to which it was a party. That Commission had ordered that precautionary measures be taken and, when that was not done, had referred it to the Inter-American Court of Human Rights.

52. In another positive development, Omar Alonso, a fugitive from justice had been arrested and sentenced to preventive detention. He had control of a child, registered as his daughter, who had been proved in a legal action not

to belong to him. His wife, who was living in Paraguay with the child, presumably the daughter of disappeared parents, had also been charged. A warrant for their arrest had been issued in 1986, and in 1993, Alonso had been arrested on the basis of information supplied to the authorities by the Grandmothers of the Plaza de Mayo.

53. Lastly, her organization's tireless efforts had succeeded in finding and identifying José Sabino Abdala, who had been kidnapped at the age of three with his parents in 1977. As a 19 year-old, he had made the acquaintance of his natural family and had recovered his identity and history. He had become a free man.

54. When a humble group of elderly, powerless and impoverished women had been able to do so much to reverse the course of history and find their lost grandchildren, she wondered what the powerful Governments of the world's countries might not be able to do for the cause of human rights, if they only had the will.

55. Mr. AL-JADIR (Arab Organization for Human Rights) said that the General Assembly of his organization had held its third session on 1 and 2 December 1993. One week later, Mr. Mansour Al-Kikhia, who had attended the meeting and had been re-elected as a member of the organization's Board of Trustees, had disappeared in Cairo. The Egyptian authorities had been informed as well as the Working Group on Enforced or Involuntary Disappearances and, on 7 January 1994, the Executive Committee of his organization had held an extraordinary meeting at Beirut to discuss the issue and had renewed its call to the Egyptian authorities to continue their endeavours to bring about Mr. Al-Kikhia's safe return.

56. It had also requested the Libyan authorities to spare no effort to learn the fate of Mr. Al-Kikhia, who was a Libyan citizen, and to clear up any ambiguities that had resulted from statements by certain Libyan officials at the time of the disappearance which called for the destruction of the opposition and the elimination of its leaders. His organization urged all peace-loving movements and organizations and all those concerned with human rights to do their utmost to save Mr. Al-Kikhia's life and guarantee his safety.

57. His organization was afraid that the Working Group on Enforced and Involuntary Disappearances might deal with the case in a leisurely bureaucratic fashion typical of the United Nations. Urgent action was needed: a man's life was at stake. His organization had been one of the many that had called for the establishment of the post of High Commissioner for Human Rights, to obviate the bureaucracy that was paralysing the work of the United Nations. It was to be hoped, therefore, that the High Commissioner would proceed immediately to examine the case of Mansour Al-Kikhia and all the other similar cases at the highest levels.

58. Mr. MEJIA (World Organization against Torture) said that in 1993 alone, his organization had been called upon to intervene as a matter of urgency on behalf of more than 7,000 victims of serious human rights violations in 49 countries around the world. Allegations of illegal detention and of torture and other cruel, inhuman or degrading treatment or punishment had been

repeatedly formulated in Bangladesh, Chile, Comoros, Honduras, India, Iran, Israel, Morocco, Myanmar, Nicaragua, Nigeria, Pakistan, Panama, Russia, Rwanda, Sudan, Thailand, Togo and elsewhere. In a number of countries, including Chad, China, Costa Rica, Haiti, Nepal, Sudan, Syria and Zaire, the practice of torture had been cited as the principal or presumed cause of death of one or more persons deprived of liberty or held in detention or prison.

59. In Spain, a number of persons, mainly of Basque origin, had alleged that they had been illegally detained and tortured in police stations. During the second half of 1993, two Basques had died in detention. The authorities had stated that one of those deaths had been the result of the state of health of the victim and that the other had been a suicide, the victim having jumped out of a window at the police station.

60. In Ecuador, many persons, including minors, had alleged that they had been illegally detained and tortured. In December 1993, 30 indigenous persons and peasants had been detained and tortured by members of the armed forces. Eleven persons were said to be still in detention, charged on the basis of statements apparently extracted under torture.

61. His organization was pleased that Colombia had ratified the main international human rights instruments and intended to ensure respect for rights and liberties and that the Colombian authorities had cooperated with the various monitoring bodies. Nevertheless, the situation of human rights in that country continued to worsen. Every day some 10 persons were murdered for political reasons. There was a high number of cases of illegal detentions, in most cases accompanied by the torturing of detainees and, often, their disappearance and summary execution.

62. Those responsible were usually members of the armed forces or security organs or of armed groups associated with them. One example among many was the case of the Molina and Gaviria Ladino families, 13 of whose members, including four minors, had been detained, tortured and subsequently executed - the women after being raped - by soldiers in October 1993. As in other similar cases, the authorities had stated that the victims had been guerrillas killed in combat, an incredible explanation, but one in keeping with the deliberate attempt to ensure impunity for the guilty parties.

63. His organization was pleased that Turkey had acceded to the Convention against Torture and other international instruments and had agreed to the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Unfortunately, those encouraging signs stood in stark contrast to the daily reality in Turkey, where thousands of men, women and children, mainly of Kurdish origin, were the victims of serious and massive human rights violations. There had been hundreds of detentions, both legal and otherwise, generally accompanied by indescribable forms of torture, leading to a number of deaths during detention or shortly after release.

64. There had been many reports of the enforced disappearances or the arbitrary execution of detainees. For example, in October 1993, the bodies of Metin Can, a lawyer and President of the Elazig section of the Association of Human Rights and Hayan Kaya, a physician and member of that Association, had

been found, bearing signs of severe torture, several days after they had been illegally detained, allegedly by security agents or police officers.

65. In Egypt, the continued climate of extreme violence had given rise to repeated serious human rights violations committed against persons deprived of their liberty, as revealed in a number of verdicts of the civilian courts - whose fairness and impartiality deserved recognition. There had been numerous allegations of the systematic torture of detainees; in most cases, those responsible were still unpunished.

66. In Peru, the situation was similar. Although less frequent than in the past, there had been a number of allegations of illegal or arbitrary detention in 1993 often associated with ill-treatment or torture and sometimes resulting in death, as in the case of Rafael Edwin Salgado Castillo, detained in April 1993. In other instances the torture victim had been subsequently executed, as in the case of Teófilo Nuñez Quispe, in August 1993. Policemen were said to have been responsible.

67. In Mexico, following the events at the beginning of 1994, dozens of civilians - mostly members of the indigenous communities and civil organizations - had been detained and tortured, usually to force them to admit that they were linked to the Zapatista army. In other cases, the alleged human rights violations appeared to have been motivated by a desire for revenge on the part of the authorities. A number of persons deprived of liberty had been on prolonged hunger strikes, in particular indigenous prisoners who had been held for years in deplorable conditions without being placed on trial.

68. His organization was concerned that, in the various reports submitted to the Commission, there were references only to men and women who had been victims of human rights violations since they did not reflect the numerous cases of children and minors suffering similar violations whether directly or indirectly. Such situations should be reported by the various experts and special rapporteurs without prejudice to the jurisdiction and work of the Committee on the Rights of the Child.

69. Miss MALUWA (Malawi) said that her Government was seriously considering acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A decision should be taken within the course of the year. Her delegation welcomed the elaboration of a draft optional protocol to that instrument and commended the working group on the draft optional protocol and its Chairman-Rapporteur on the work done. Her delegation shared the view expressed by a number of others that the proposed reference to the principles of non-intervention and the sovereignty of States in article 1 of the draft optional protocol would diminish the clarity of the instrument's main purpose, namely, to permit preventive visits.

70. Draft article 2 and other related draft articles also required further reflection. The principle of universality must be a foremost consideration. It was important, however, to avoid a situation in which the proposed subcommittee would be unable to carry out its mandate as a result of the need to visit too many States parties. Her delegation urged the working group to look into the possibility of having a decentralized system which utilized the

available regional mechanisms. Alternatively, regional subcommittees might be established to carry out the functions under the draft optional protocol. The text should clearly define the institutional relations between the subcommittee and the Committee against Torture and other regional mechanisms so as to promote the proper coordination of the mandate.

71. Her delegation had taken note of the specific references to Malawi in the reports of the Special Rapporteur on the question of torture (E/CN.4/1994/31), the Special Rapporteur appointed pursuant to Economic and Social Council resolution 1985/37 (E/CN.4/Sub.2/1993/23/Rev.1*) and the Working Group on Arbitrary Detention (E/CN.4/1994/27) and would respond to those points at the appropriate time.

72. Her Government was currently carrying out a number of reforms of its criminal justice and administrative systems. The International Committee of the Red Cross (ICRC), which had been allowed to visit prisons in the country, was holding meaningful discussions with her Government on the subject of improving prison conditions. The Prisons Act had recently been amended to divest the Inspector-General of Police of his general supervisory role over the prisons. Prisons were currently under the Ministry of Justice. The Preservation of Public Security Act had been amended to remove all provisions relating to detention without trial. There were currently no political prisoners in Malawi.

73. Her Government was also in the process of reforming the traditional courts, which no longer had criminal jurisdiction over such serious offences as murder and treason: such cases could be tried only in the High Court of Malawi. The future role of the traditional courts in the administration of criminal justice was currently a subject of considerable discussion.

74. Parliament had adopted a General Amnesty Act to allow all political and religious exiles to return home and participate fully and freely in the political process as the country moved towards general elections in May 1994. A recent amendment to the Act made provision for assistance to returnees in their resettlement or rehabilitation.

75. Those changes, which had improved the overall criminal justice and administration system, fostered an independent judiciary and promoted the right to redress in civil matters, should go a long way towards meeting some of the concerns of the special rapporteurs and the Working Group.

76. Her delegation called for the early implementation of the action proposed by the Centre for Human Rights to implement the Vienna Declaration and Programme of Action in respect of freedom from torture and enforced disappearances.

77. Mr. DEGUENE KA (Observer for Senegal) said that the World Conference on Human Rights had emphasized that torture was one of the most atrocious violations of human dignity; it had also reaffirmed that, under human rights law and international humanitarian law, freedom from torture was a right which must be protected under all circumstances, a rule of jus cogens, which allowed of no derogations.

78. Despite the legal framework proscribing it, the practice of torture persisted. It was, therefore, of the utmost importance that those States which had not yet done so should ratify the international instruments prohibiting torture and accept without reservation the monitoring bodies associated with those instruments. In addition, coercive measures must be adopted and an international system of prevention set up.

79. His delegation had, since the very beginning, endorsed the draft text presented to the Commission in 1991 by the Government of Costa Rica, in whic it had proposed the establishment of a system of regular visits to places of detention as an effective means of combating acts of torture. To that end, working group to elaborate a draft optional protocol to the Convention agains Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had be set up. He wished to pay tribute to the Chairman of that Working Group for his excellent work, a reflection of Costa Rica's dedication to the cause of peace and human rights.

80. In his Government's view, work on the optional protocol must be guided the dual considerations of cooperation and effectiveness. Since the primary objective of the optional protocol was to promote the taking of preventive, opposed to judicial measures, the monitoring body to be established under tha protocol should be a separate body from the Committee against Torture. At t same time, a link between the two bodies would help to ensure complementarit and efficiency. His Government remained open to suggestions regarding the manner in which the members of the new monitoring body would be chosen; in a event, the independence and impartiality of the members must be guaranteed.

81. Ms. DEGIAMPIETRO (International League for the Rights and Liberation of Peoples) said that she wished to draw the Commission's attention once again the heinous conditions of prisoners in China and, in particular, in Tibet. Despite its commitment to international human rights law, China had made no progress in that area during 1993. According to the State Department of the United States, China was still tightly controlling religion in Tibet and torturing Tibetan prisoners of conscience. In his report (E/CN.4/1994/31), the Commission's Special Rapporteur on the question of torture had noted that Chinese police and other State personnel continued to use torture to extract confessions or to intimidate or punish prisoners.

82. The Chinese Government seemed determined to destroy Tibetan cultural an religious specificity to the point of the total assimilation of Tibetans into the Chinese culture. Intellectuals and human rights activists had been the principal targets in the 1993 arrest campaigns. Most of them had been arrested at home, rather than during public demonstrations. Some were in danger of being executed.

83. Some of the most severe human rights violations in China were connected with the widespread practice of arbitrary administrative detention, including the so-called "re-education through labour", a measure used to punish minor criminals and people considered to be dangerous to society.

84. The year 1993 had seen an increase in the number of political prisoners with more than 400 persons arrested during peaceful demonstrations. Arrests had also occurred during such peaceful gatherings as a traditional religious

feast. She therefore fully endorsed the study being undertaken on the threats or use of violence and harassment directed at persons seeking to exercise the right of freedom of opinion.

85. Violations of human rights were not subject to the limitations of Article 2, paragraph 7, of the United Nations Charter. She therefore categorically refuted the recent allegation by the delegation of China that draft resolution E/CN.4/Sub.2/1993/L.26 on the situation in Tibet had seriously violated the principles and purposes of the Charter and interfered in the internal affairs of China.

86. The situation of ethnic Albanians living in Kosovo was worsening daily, and with it the risk that the Bosnian conflict might spread. Since 1989, the central Government of Serbia had suppressed any form of autonomy in Kosovo and had adopted a strategy to repress totally the Albanians, who represented 90 per cent of the province's population. Although the Belgrade Government had ratified the International Covenants on Human Rights and other international human rights instruments, it was systematically violating the civil, political and economic rights of the Albanians.

87. The repression had become unbearable in the past few months with the institution of the "weapons collection" action. Officially designed to disarm "terrorists", that campaign was being carried out with total disregard for judicial safeguards. Thousands of Albanians, including women and children, had been subjected to severe acts of brutality during weapons searches. More than 3,000 people had been apprehended and held for several days in police custody before any judicial authority had been informed. During those periods, the detainees had been beaten and tortured. Once brought before the court, the detainees' right to a fair trial was impeded by a number of mechanisms, not the least being the fact that Serbs had taken over all positions as attorneys and prosecutors. The irony was that the vast majority of weapons collected thus far were legally-registered hunting guns or non-functional guns kept for decorative purposes.

88. The Commission should thus give serious consideration to the situation in Kosovo and should ask the Serbian Government to release political prisoners, respect international human rights law and allow non-governmental organizations access to Kosovo.

89. Mr. BURNEO (Commission of the Churches on International Affairs of the World Council of Churches) said that the failure of the Commission to take action with regard to clear cases of serious human rights violations, e.g. those in Colombia and Peru, had resulted in the continuation of acts such as torture, disappearances and the absence of due process of law, which affected thousands of persons. In the case of Peru, where some 2,200 persons had disappeared in recent years, the current Government was responsible for 25 per cent of the victims. The Commission had hitherto remained silent despite the fact that those disappearances had orphaned thousands of children and plunged many families into mourning.

90. While the Commission's inaction had adverse effects, he was pleased to be able to say that the Commission's action and the decisions it took could constitute a real contribution by the international community to peace and

human rights. Thus the situations in Guatemala, El Salvador, Haiti and Cambodia would probably be worse if the Commission had not intervened in its own peaceful way.

91. Over the past 10 years, four Latin American countries - Guatemala, El Salvador, Peru and Colombia - had occupied first place in the world with regard to the numbers of missing persons. It was only in Colombia and Peru that the Commission had not taken action by appointing a special rapporteur.

92. According to a report by the Department of State of the United States, there had been 57 cases of disappearances in Peru in 1993. The National Human Rights Coordinating Unit of Peru, a non-governmental coalition, had documented reports of 50 cases. His organization had received from the National Human Rights Coordinating Unit and from local churches fully documented reports on the increased use of torture, the continuance of enforced disappearances and impunity. That information was in full accordance with the thematic reports of the special rapporteurs and the Working Groups. The Special Rapporteur on extrajudicial, summary or arbitrary executions stated in his report on his mission to Peru in 1993 that there was a clear institutionalization of impunity and a lack of political will with regard to implementing thorough and independent investigations and punishing those found responsible (E/CN.4/1994/7/Add.2, paras. 31 and 94). Similar views were stated in the thematic reports on torture and on enforced or involuntary disappearances.

93. A serious case of impunity had occurred recently in Peru. Nine undergraduates and a professor from "La Cantuta" University in Lima had disappeared and then been killed by members of the National Intelligence Service with the support of the army. Five days previously, the Supreme Court of Justice of Peru had referred the case to the military courts, abdicating its power to administer justice under an Act which was in violation of the new Constitution. That Act, which had been adopted by Congress, had been promulgated without objection by the President of Peru. Military power was corrupting the law and society. Under the new Constitution, secret military courts tried civilians and could sentence them to death. Approximately 300 civilians had been sentenced to life imprisonment in the past 18 months.

94. The military courts were not part of the judiciary but rather of the executive power, which administered justice through them. That was a clear violation of the principle of the separation of powers, in a State subject to the rule of law.

The meeting rose at 1 p.m.